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09/683,791	02/14/2002	Edward J. Panelli	gems0158/yod	2199
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GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			EXAMINER LE, LINH GIANG	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* EDWARD J. PANELLI
9

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11 Appeal 2009-000813
12 Application 09/683,791
13 Technology Center 3600
14

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16 Decided: August 24, 2009
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20 *Before* MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
21 BIBHU R. MOHANTY, *Administrative Patent Judges*.

22
23 CRAWFORD, *Administrative Patent Judge*.
24

25
26 DECISION ON APPEAL

27
28 STATEMENT OF THE CASE

29 Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection
30 of claims 1-13 and 15-32. We have jurisdiction under 35 U.S.C. § 6(b)
31 (2002).

Appellant invented a method and apparatus to enable a customer that stores radiological images on film to perform an economic analysis of converting to a digital radiological image storing system (Spec. [0001]).

Claim 1 under appeal is further illustrative of the claimed invention as follows:

1. An electronic information system to enable a radiological image archiving system supplier to provide a customer with economic information regarding radiological image archiving system provided by the supplier, the information system comprising:
 - a query page stored in the electronic information system, wherein the electronic information system provides the query page to the customer via an electronic communication system, wherein the query page comprises at least one question designed, when completed by the customer, to enable the information system to determine a customer's radiological imaging system usage over a period of time; and
 - an application stored in the electronic information system, wherein the application establishes an expected cost reduction resulting from using a supplier's radiological image archiving system based on the customer's radiological imaging system usage.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Wong	US 6,260,021 B1	July 10, 2001
Sarno	US 2002/0042751 A1	Apr. 11, 2002
Jamroga	US 6,574,472 B1	June 3, 2003
Funahashi	US 6,820,100 B2	Nov. 16, 2004

1 The Examiner rejected claims 1-5, 7-11, 13, and 15-31 under 35
2 U.S.C. § 103(a) as being unpatentable over Sarno in view of Jamroga; claim
3 6 under 35 U.S.C. § 103(a) as being unpatentable over Sarno in view of
4 Jamroga and Wong; and claims 12 and 32 under 35 U.S.C. § 103(a) as being
5 unpatentable over Sarno in view of Jamroga and Funahashi.

6 We AFFIRM-IN-PART.

7
8 ISSUES

9 Did the Appellant show the Examiner erred in finding that a
10 combination of Sarno and Jamroga renders obvious a query page comprising
11 at least one question designed, when completed by the customer, to enable
12 the information system to determine a customer's radiological imaging
13 system usage over a period of time, as recited in independent claims 1 and
14 13?

15 Did the Appellant show the Examiner erred in finding that a
16 combination of Sarno and Jamroga renders obvious a query page comprising
17 at least one question designed, when completed by the customer, to enable
18 the information system to establish an amount of radiological imaging film
19 consumed/produced by a customer over a specified period of time, as recited
20 in independent claims 23 and 29?

21 Did the Appellant show the Examiner erred in rejecting dependent
22 claims 6, 12, and 32, because the additional cited references of Wong and
23 Funahashi do not remedy the deficiencies of independent claims from which
24 they ultimately depend?

FINDINGS OF FACT

Specification

Appellant invented a method and apparatus to enable a customer that stores radiological images on film to perform an economic analysis of converting to a digital radiological image storing system (Spec. [0001]).

Sarno

Sarno discloses a cost justification application that processes user information to generate results. The user information may be collected via a user interface, for example, a graphical user interface (e.g., a user interface screen presented on a computer monitor ([0012], [0014], [0015])).

One dimension of information typically present is time (e.g., how long of a period the case covers) ([0135]).

Jamroga

Jamroga discloses the Digital Imaging and Communications in Medicine (DICOM) standard which standardizes the transferring of medical images and information between electronic devices. Modalities supported include ultrasound, X-ray (digitized film radiographs), and radiotherapy. DICOM supports the creation of files on removable media, data structures for X-ray angiography and extended hard copy print management (col. 1, ll. 48-61).

Hospitals and radiology centers need to transition from film-based technology to digital imaging to maintain productivity and a competitive edge (col. 1, l. 66 through col. 2, l. 2).

PRINCIPLES OF LAW

Obviousness

One cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

Claim Construction

While the specification can be examined for proper context of a claim term, limitations from the specification will not be imported into the claims. *CollegeNet, Inc. v. ApplyYourself, Inc.*, 418 F.3d 1225, 1231 (Fed. Cir. 2005).

ANALYSIS

Query Page

We are not persuaded of error on the part of the Examiner by Appellant's argument that a combination of Sarno and Jamroga does not render obvious a query page comprising at least one question designed, when completed by the customer, to enable the information system to determine a customer's radiological imaging system usage over a period of time, as recited in independent claims 1 and 13 (App. Br. 6-9). Specifically, the Appellant asserts that while Sarno discloses an electronic user interface for eliciting generic user information, Sarno is absolutely devoid of a query page designed to elicit or determine existing usage of a customer's radiological imaging system. As an initial matter, we note that Jamroga is cited as disclosing the radiological imaging system (Ex. Ans. 13-15). One

1 cannot show non-obviousness by attacking references individually where the
2 rejections are based on combinations of references. *In re Keller*, 642 F.2d at
3 426.

4 Sarno discloses that the cost justification application utilizes the user
5 information to generate results. We are not persuaded that only generic user
6 information could be used to generate cost justification results. Technical
7 information specific to the system for which the cost justification is sought
8 would be necessary. Moreover, paragraph [0135] of Sarno discloses one
9 dimension of information typically present is time (e.g., how long of a
10 period the case covers). Accordingly, Sarno discloses generating cost
11 justification results over a given timeframe provided by the user.

12 Appellant additionally asserts that Jamroga is directed to the
13 downstream delivery and storage of images, and not to the upstream
14 acquisition of the images, and thus it would be impractical or even
15 impossible in the specific context of Jamroga to determine the usage of the
16 upstream image acquisition systems. As an initial matter, there is no
17 indication that either Sarno or independent claims 1 and 13 are limited to
18 upstream image acquisitions systems. While the specification can be
19 examined for proper context of a claim term, limitations from the
20 specification will not be imported into the claims. *CollegeNet, Inc. v.*
21 *ApplyYourself, Inc.*, 418 F.3d at 1231.

22 Moreover, the Appellant has not convincingly shown what difference
23 it would make whether Jamroga is directed to an upstream or downstream
24 system. Jamroga is directed to storage of medical images. Sarno is directed

1 to cost justification. The Appellant has not shown any technical barriers as
2 to why Sarno's cost justification system could not be applied to the storage
3 systems of Jamroga.

4 The corresponding recitation of independent claim 20 is broader than
5 the above-recited portions of independent claims 1 and 13. Specifically,
6 independent claim 20 generally recites receiving radiological imaging
7 system usage information from the customer without requiring that the usage
8 be over a period of time. Sarno discloses the receipt of usage information.
9 Jamroga discloses the radiological imaging system. Accordingly, we also
10 sustain the rejection of independent claim 20.

11
12 *Film Consumed/Produced*

13 We are persuaded of error on the part of the Examiner by Appellant's
14 argument that a combination of Sarno and Jamroga does not render obvious
15 a query page comprising at least one question designed, when completed by
16 the customer, to enable the information system to establish an amount of
17 radiological imaging film consumed/produced by a customer over a
18 specified period of time, as recited in independent claims 23 and 29 (App.
19 Br. 9-10). We agree with the Examiner that Jamroga discloses that digital
20 images are preferred over film (Ex. Ans. 9-10). However, this preference by
21 itself does not disclose an amount of radiological imaging film
22 consumed/produced by a customer over a specified period of time. This
23 preference merely indicates that when the digital conversion is complete, the
24 amount of film will go from an "amount" to zero. The Examiner has not
25 shown how either Sarno or Jamroga discloses how this "amount" is
26 established, as recited in independent claims 23 and 29.

1 Accordingly, we do not sustain the rejection of independent claims 23
2 and 29. Due to their dependence on independent claims 23 and 29, we also
3 do not sustain the rejections of dependent claims 24-28, 30, and 31.

4
5 *Dependent Claims 6, 12, and 32*

6 We are partly persuaded of error on the part of the Examiner by
7 Appellant's argument that the rejections of dependent claims 6, 12, and 32
8 were improper, because the additional cited references of Wong and
9 Funahashi do not remedy the deficiencies of independent claims from which
10 they ultimately depend. Dependent claims 6 and 12 depend from
11 independent claim 1. As the rejection of independent claim 1 was sustained,
12 the rejection of dependent claims 6 and 12 are also sustained. Dependent
13 claim 32, however, depends from independent claim 29. As the rejection of
14 independent claim 29 was not sustained, and the Examiner has not shown
15 how Funahashi remedies the deficiencies of independent claim 29, the
16 rejection of dependent claim 32 is also not sustained.

17
18 **CONCLUSION OF LAW**

19 On the record before us, Appellant has shown that the Examiner erred
20 in rejecting claims 23-32.

21 On the record before us, Appellant has not shown that the Examiner
22 erred in rejecting claims 1-13 and 15-22.

No time period for taking any subsequent action in connection with
this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED-IN-PART

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